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PRE-APPEAL BRIEF REQUEST FOR REVIEW

Docket Number (Optional):

4740-001/P12774-US1

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Date: **February 8, 2006**

Signature:

Typed or printed name: **KATHLEEN KOPPEN**

Application Number:

09/843,232

Filed:

April 26, 2001

First Named Inventor:

Moshiri-Tafreshi

Art Unit:

2665

Examiner:

JASON E. MATTIS

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).
Note: No more than five (5) pages may be provided.

I am the

☐

applicant/inventor

☐

assignee of record of the entire interest.

See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed.
(Form PTO/SB/96)

☒

attorney or agent of record

Registration Number: 53,639
☐

attorney or agent acting under 37 CFR 1.34.

Registration Number if acting under 37 CFR 1.34 _____

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February 8, 2006

Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.

☐

*Total of _____ form(s) is/are submitted.

*EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant. ¹ Applicant's unique citation designation number (optional). ² Applicant is to place a check mark here if English language Translation is attached. This collection of information is required by 37 CFR 1.98. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of
Moshiri-Tafreshi

Serial No.: 09/843,232

Filed: 26 April 2001

For: **Channel Supervision in a Radio Network**

Attorney's Docket No: 4740-001

Patent Pending

Examiner: Mr. Jason E. Mattis

Group Art Unit: 2665

Mail Stop AF

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8 February 2006

Date


Kathleen Koppen

ARGUMENTS PRESENTED FOR PRE-APPEAL BRIEF REQUEST FOR REVIEW

The applicant presents the following arguments in support of the Pre-Appeal Brief Request for Review (PABRR) attached herewith.

In the new Office Action dated 25 January 2006, the examiner repeats the rejection of all claims (1 – 13) under 35 U.S.C. §103 as being obvious over Rezaiifar (US6467270) in view of Cheng (US6393008). In fact, the fundamental §103 rejection of independent claims 1, 5, and 9, including the stated motivation to combine Cheng with Rezaiifar, is an almost verbatim repetition of the §103 rejections cited in the FOA mailed 13 July 2005. As the Pre-Appeal Brief Review Panel already withdrew these rejections (see the “Notice of Panel Decision from Pre-Appeal Brief Review” dated 29 November 2005), the examiner appears to have simply ignored the Panel's decision. The applicant respectfully requests that the Panel once again review the pending office action and reverse the examiner's rejections.

As stated in the previous PABRR dated 13 October 2005, the §103 rejection fails because Rezaiifar and Cheng do not combine in any way that teaches the present invention, and because the proffered motivation to combine Rezaiifar and Cheng is unsupportable over the examiner's erroneous explanation of the teachings found in Rezaiifar and Cheng. The applicant refers the Panel to p. 2, lines 8 through the end of p. 3 of the previous PABRR, where the applicant presented these arguments in detail. To summarize, Rezaiifar and Cheng each disclose using a single packet data resources timer for the same purpose, i.e., timing the release of packet data resources. As such, the examiner's arguments that the Cheng timer can be combined with the Rezaiifar timer to produce first and second timers that operate in the manner claimed in the instant application is nonsensical.

To further elaborate, the applicant notes that because Cheng's timer performs the same function as Rezaiifar's timer, Cheng does not have a "first" timer that complements Rezaiifar's "second" timer. In fact, instead of simply combining Cheng's timer with Rezaiifar's timer, the examiner's rejection ignores the plain teachings of Cheng, and modifies Cheng's timer according to the applicant's teachings and adds the modified timer to Rezaiifar's teachings. Such a rejection is improper and cannot withstand scrutiny. For at least this reason and the reasons presented in the first PABRR, the §103 rejection must be withdrawn.

In addition, the only substantive difference in the new Office Action is the addition of a couple of brief speculations regarding the claim limitations requiring that the second timer have a longer time out period than the first timer (see pg. 5, ll. 3 – 4; pg. 6, ll. 8 – 9; pg. 8, ll. 6 – 14, and pg. 11, ll. 1 – 4). In particular, the examiner asserts it would be obvious to make a second timer (from Rezaiifar) longer than a first timer (from Cheng) because dual timer systems would logically have timers of different lengths. However, this analysis is purely speculative and completely ignores the fact that the Rezaiifar and Cheng timers implement the same function. Because the timers both implement the same function, there is no motivation to combine

Rezaiifar with Cheng, as discussed above and in previous remarks. Because there is no motivation to combine, there is no reason for the skilled person to even speculate about the relative lengths of the Rezaiifar and Cheng timers.

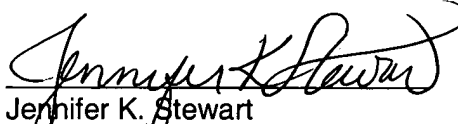
Further, there is nothing in Rezaiifar or Cheng to support the idea that the Rezaiifar timer is longer than the Cheng timer. In the two-timer system proposed by the examiner, it would be just as easy to speculate that the Cheng timer is longer than the Rezaiifar timer. Because there is nothing in the cited references to teach or suggest how the length of the Rezaiifar timer compares to the length of the Cheng timer, the cited art does not support the examiner's assertions. As such, the rejections must be withdrawn.

The applicant further notes that the remarks put forward by the examiner in the new Office Action do not even attempt to address the remarks put forward by the applicant in the previous PABRR or the previous office action responses. Instead, as stated above, the majority of the pending office action is a verbatim repetition of the rejections in the Final Office Action mailed 13 July 2006. The only substantive difference in the new Office Action is the addition of the remarks regarding the claim limitations requiring that the second timer have a longer time out period than the first timer, as discussed above. While such new remarks attempt to address one issue discussed in the previous PABRR, they do not even come close to addressing the majority of remarks submitted by the applicant in the previous PABRR and in the previous office action responses. Further, instead of addressing each of the applicant's remarks, the examiner simply dismisses all of the applicant's remarks as moot in light of the examiner's new remarks directed to the differences in timer lengths (see pg. 11 of the pending Office Action). It appears that the examiner believes that addressing one of the applicant's remarks suitably addresses all of the applicant's remarks. However, such a position violates the requirements of MPEP §706.07 and cannot be maintained.

In view of the above remarks and the remarks in the previously filed PABRR, the applicant submits that the examiner's obviousness rejections against claims 1 – 13 are legally insufficient. As such, the applicant requests reconsideration and withdrawal of all pending §103 rejections.

Respectfully submitted,

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Dated: 8 February 2006

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